

FEDERAL COMMUNICATIONS COMMISSION  
ENFORCEMENT BUREAU  
MARKET DISPUTES RESOLUTION DIVISION  
445 12<sup>TH</sup> STREET, S.W.  
WASHINGTON, DC 20554

June 23, 2016

**Via E-mail**

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Re: Mediation of Pole Attachment Complaint Proceeding: *Verizon Virginia LLC and Verizon South Inc. v. Virginia Electric and Power Company d/b/a Dominion Virginia Power*, Proceeding No. 15-190, File No. EB-15-MD-006

Dear Counsel:

This is to confirm that Verizon Virginia LLC and Verizon South Inc. (collectively, Verizon) and Virginia Electric and Power Company d/b/a Dominion Virginia Power (Dominion) have agreed to mediate the above-referenced dispute before staff from the Commission's Market Disputes Resolution Division (MDRD).

The following memorializes the matters discussed on Tuesday's joint call with the parties. Staff plans to begin the mediation process by speaking by phone with each party individually and to follow up with additional individual calls, as appropriate. The parties have consented to the individual discussions. Staff also may convene a joint session in person at the Federal Communications Commission, as appropriate. If the parties agree to participate in any such joint session, a representative from each party with settlement authority and knowledge of the relevant facts will be expected to attend the session, along with counsel, and the parties should be prepared to spend at least three hours in conference.

Staff views mediation as an attempt by the parties to engage in good-faith settlement discussions. In order to advance that objective, the parties and Commission staff agree to treat as confidential all

written and oral communications made by anyone during the Mediation Process,<sup>1</sup> including all communications between or among the parties and Commission staff in preparation for the mediation session (including all communications made during individual and joint calls with the parties), during the in-person mediation session, and in any follow-on settlement discussions after the mediation session.<sup>2</sup> Note, however, that the content of prior filings in this proceeding (including the Pole Attachment Complaint, Response, and Reply) *will not be* treated as confidential unless such protection is sought pursuant to rule 1.1408(c), 47 C.F.R. §1.1408(c). The parties agree to use any information learned during the Mediation Process solely for purposes of exploring a possible settlement of this dispute. The parties further agree not to use, disclose, or seek disclosure of such information in any proceeding before the Commission (including the pole attachment complaint proceeding involving the instant dispute unless it is described explicitly by the holder of the non-public information in the text of the Pole Attachment Complaint, Response, Reply, or other Commission filing in connection with this dispute), or in any other tribunal, unless compelled by law to do so. Neither we nor the parties will disclose to anyone outside the Commission, or seek disclosure of any non-public information learned in the mediation process.<sup>3</sup> Further, if a party intends to contact anyone at the Commission other than MDRD staff regarding this dispute or the mediation, that party must provide advance notice of its intention to MDRD staff and the opposing party.

If either party objects to these confidentiality directives, please e-mail an explanation for the objection to the other party and to the MDRD staff assigned to this matter by **June 27, 2016**. Absent a written objection, the parties and their representatives are deemed to agree to these provisions.

This letter is issued pursuant to sections 4(i) and 4(j) of the Communications Act, 47 U.S.C. §§ 154(i), 154(j), the ADR Act, 5 U.S.C. §§ 571-584, sections 1.3, 1.18, 0.459, and 1.1401-1.1412 of the Commission's rules, 47 C.F.R. §§ 1.3, 1.18, 0.459, and 1.1401-1.1412, and the authority delegated by sections 0.111, and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311.

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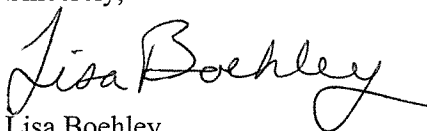
<sup>1</sup> The "Mediation Process" begins from the date of our June 21, 2016 joint call with the parties and encompasses all subsequent communications between or among the parties and MDRD staff in preparation for, during, and following the mediation session (until the parties either settle their dispute or conclude that further discussions would not be productive).

<sup>2</sup> See sections 4(i) and 4(j) of the Communications Act of 1934, as amended (Communications Act), 47 U.S.C. §§ 154(i), 154(j), sections 571 to 584 of the Administrative Dispute Resolution Act of 1996 (ADR Act), 5 U.S.C. §§ 571-584, and sections 1.18(b) and 0.459 of the Commission's rules, 47 C.F.R. §§ 1.18(b), 0.459. To the extent that the confidentiality provisions in this letter differ from the confidentiality standards contained in these authorities, the confidentiality provisions here are controlling. See 47 C.F.R. § 1.3; 5 U.S.C. § 572(c) ("Alternative means of dispute resolution authorized under [the ADR Act] are voluntary procedures which supplement rather than limit other available agency dispute resolution techniques.").

<sup>3</sup> Pre-existing information that is not confidential does not become confidential solely because it is exchanged or mentioned during the Mediation Process. However, the fact that one or both parties has made use of the information during the Mediation Process is confidential. In addition, to guard against inadvertent disclosure of confidential documents, we recommend that the parties label each page of any confidential documents disclosed during the mediation as "Confidential - For Settlement Purposes Only."

If you have any questions, please contact me at [Lisa.Boehley@fcc.gov](mailto:Lisa.Boehley@fcc.gov) or 202-418-7395, or Rosemary McEnery at [Rosemary.McEnery@fcc.gov](mailto:Rosemary.McEnery@fcc.gov) or 202-418-7336.

Sincerely,

A handwritten signature in black ink that reads "Lisa Boehley". The signature is fluid and cursive, with the first name "Lisa" and last name "Boehley" clearly distinguishable.

Lisa Boehley  
Market Disputes Resolution Division  
Enforcement Bureau  
Federal Communications Commission